

The Honorable Mary Jo Heston
Hearing Date: March 26, 2019
Hearing Time: 9:00 a.m.
Response Date: March 19, 2019
Chapter 7
Location: Tacoma

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF WASHINGTON

In re

No. 16-45059

DAVID and JENNIFER FOWLER,

REPLY TO RESPONSE TO OBJECTION
TO AMENDED EXEMPTIONS

Debtors.

COMES NOW Kathryn A. Ellis, the Chapter 7 Trustee herein, and in reply to the debtors' Response to Trustee's Objection to Exemptions, states as follows:

I. REPLY

The Trustee has been trying to determine, for years, the value of this claim and the parties that may be liable as defendant(s). The only information the Trustee has received consists of reference to "loan care" that completed the foreclosure listed in the Statement of Financial Affairs (see Docket No. 1, page 42, number 10). Even though the value of the claim was requested, it was not provided. Accordingly, after the potential undisclosed claim was discovered, and the case reopened, the schedules were not amended by Mr. MaGee or the debtors and the case was re-closed.

The Trustee's May 12, 2017 letter was meant to advise Mr. Barraza that the Trustee was the real party in interest and that she needed to establish the value of the claim to decide how to proceed with administration. In response to this letter, Mr. Barraza indicated that he would withdraw. Apparently this intent to withdraw is confirmed again in the response to this

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1 objection. See Docket No. 37-1, paragraphs 8 and 15.

2 **II. DISCUSSION**

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4 Unscheduled assets are not considered as “administered” in the bankruptcy estate.
5 Unscheduled property remains property of the bankruptcy estate that may be administered if the
6 estate is re-opened, as here. 11 U.S.C. § 554 (d); *Cusano vs. Klein*, 264 F.3d 936, 945 (9th Cir
7 2001).
8

9 **III. CONCLUSION**

10 In accordance with the above, as the estate has been re-opened, the debtors’ unscheduled
11 claim is property of the estate that will be administered by the Chapter 7 Trustee. If necessary,
12 application will be made pursuant to BR 2004 to obtain the necessary information from the
13 debtors and counsel for administration.
14

15 DATED this 21st day of March, 2019.
16

17 /s/ Kathryn A. Ellis

18 Kathryn A. Ellis, Trustee

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